

SENATE BILL NO. 182

INTRODUCED BY GILLAN, BECKER, BRANAE, BUZZAS, DRISCOLL, EATON, GOLIE, GRINDE, KEANE,
KITZENBERG, LINDEEN, MATTHEWS, RASER, SCHMIDT, WILSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN ABSENTEE BALLOT CAST AND
RETURNED BY AN ELECTOR WHO DIES BEFORE ELECTION DAY MUST BE COUNTED; AND AMENDING
SECTIONS 13-13-204 AND 13-13-243, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-13-204, MCA, is amended to read:

**"13-13-204. Authority to vote in person -- printing error or ballot destroyed -- failure to receive
ballot -- effect of absentee elector's death.** (1) If an elector has voted by absentee ballot but the absentee
ballot contains printing errors or omissions, except that the name of a candidate who has died since the printing
of the ballot and that appears on the ballot does not constitute an error or omission, the elector may vote in
person in any manner at the elector's polling place.

(2) If an elector does not receive an absentee ballot or if the absentee ballot was destroyed, the elector
may appear at the appropriate polling place on election day and vote in person after signing an affidavit, in the
form prescribed by the secretary of state, swearing that the elector's ballot has not been received or was
destroyed. The ballot must be handled as a provisional ballot under 13-15-107.

(3) If an elector votes by absentee ballot and the ballot has been mailed or otherwise returned to the
election administrator but the elector dies between the time of balloting and election day, the deceased elector's
ballot ~~does not count~~ must be counted."

Section 2. Section 13-13-243, MCA, is amended to read:

"13-13-243. Rejected absentee ballots. (1) The rejected ballots, the applications, and all envelopes
~~shall~~ must be enclosed in an envelope and sealed, and the judges shall write on the envelope "rejected ballot(s)
of absentee elector" (writing in the elector's name).

(2) The unopened absentee ballot envelope of an elector who has voted in person as provided in
13-13-204 must be marked "voted in person" and initialed by a majority of the election judges.

(3) The unopened absentee ballot envelope of an elector who dies before election day shall be marked "died before election day" and initialed by a majority of the election judges if they are notified of the death on election day. The election administrator shall make and sign the notation if notice of the death is received before delivery of the absentee ballot to the polling place.

____(4)(3) All rejected ballots ~~shall~~ must be placed in the sealed package in which the voted ballots are required to be placed and may not be opened without a court order."

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